IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13-07-2005

CORAM:

THE HON'BLE MR.JUSTICE P.SATHASIVAM
and
THE HON'BLE MR.JUSTICE AR.RAMALINGAM

W.P.Nos.21527 & 21528 of 2001
and WPMP.Nos.42709 & 42711 of 2003

....

T. Adavan .. Petitioner in WP.21527/01

D. Pourouchottamane .. Petitioner in WP.21528/01

vs.

1. The Union of India, rep. by
   Union Territory of Pondicherry
   through the Secretary to Govt.,
   Transport Department
   Chief Secretariat
   Government of Pondicherry
   Pondicherry.

2. The Transport Commissioner
   Transport Department
   Government of Pondicherry
   Pondicherry 1. .. R.1 & R.2 in both the Wps.

3. V. Srinivasan
4. V. Ramesh
5. M. Dakshinamurthi
6. R. Balasubramani
7. Shanmughanathan @ Palaniappan.. R.3 to R.7 in WP.21527/01

8. The Registrar
   Central Administrative Tribunal
   High Court Buildings
   Chennai 600 104. .. R.8 in both the Wps.

3. M. Dakshinamurthi
4. V. Ramesh
5. V. Srinivasan
6. R. Balasubramani
7. Shanmughanathan @ Palaniappan.. R.3 to R.7 in WP.21528/01

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Petitions filed under Article 226 of the Constitution of India praying for an issuance of a writ of certiorarified mandamus as stated therein.

For petitioners : Mr. G. Masilamani
Senior Counsel
for M/s. G.M. Mani Associates

For respondents 1 & 2 : Mr. T. Murugesan
Government Pleader (Pondy)

Mr. V. Ajay Kumar for R.5 in WP.21527/01 &
for R.3 in WP.21528/01.

No appearance for R.3,4,6 and 7 in WP.21527/01 &
for R.4 to R.7 in WP.21528/01.

..

COMMON ORDER

(ORDER of the Court was made by P.SATHASIVAM,J.)

Aggrieved by the common order dated 13.07.2001 made in O.A.Nos.452 of 1998 and 290 of 1999, the petitioners in these writ petitions filed WP.Nos.21527 and 21528 of 2001.

2. Since the issue raised in both the writ petitions is one and the same, they are being disposed of by the following common order.

3. Heard Mr. G. Masilamani, learned senior counsel for the petitioners, Mr. T. Murugesan, learned Government Pleader (Pondicherry) and Mr. Ajaykumar for the respondents.

4. The brief facts are as follows:

(a) The Government of Pondicherry had initiated action to fill up the five posts of Assistant Motor Vehicle Inspector ("AMVI" in short). The candidates sponsored by the Employment Exchange were considered for selection. The selection process comprised of a written examination, practical test, followed by a viva-voce test.

(b) The applicant in O.A.No.452 of 1998 is challenging the selection made to the post of AMVI by the Transport Department. He has prayed for setting aside the

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selection made and for a direction to include his name in the selection list and appointment to the post of AMVI.

(c) The applicant in O.A.No.290 of 1999, though took part in the selection process to the post of AMIV, has not been selected. He prayed for setting aside the selection made and prayed for a similar direction for inclusion of his name in the selection list and appointment to the post of AMVI.

5. Before the Tribunal as well as before this Court, the learned senior counsel appearing for the petitioners has raised the following contentions.

(i) There were serious irregularities in the selection process, hence the Tribunal should have directed the Department to conduct enquiry regarding the same.

(ii) Though the Department notified for selection of six posts, in fact selected only five posts.

(iii) The Department had not followed reservation policy.

(iv) Though the 4th respondent in WP.No.21527 of 2001 was sponsored by Employment Exchange nine times and was over aged, he was considered.

(v) The Government Order relating to age relaxation is not applicable to the present selection.

(vi) 6th respondent in WP.No.21527 of 2001 was not having required experience as per Recruitment Rules.

(vii) The claim of the 5th respondent that he was employed as Mechanic in Vellore Auto Works is false.

The learned Government Pleader (Pondicherry) and Mr. Ajaykumar appearing for the respondents rebutted all the contentions.

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6. As said earlier, the Tribunal considered all these contentions and rejected the same as unacceptable. On perusal of the contentions raised, we are of the view that all relate to either selection process or the qualification / eligibility of selected candidates. As far as the names sponsored by the Employment Exchange are concerned, both before the Tribunal as well as before this Court, it is the claim of the Department that the validity of the list of candidates communicated by the Employment Exchange was only for 3/6 months. It is explained that if the recruitment could not be made within the validity period, the list should be revalidated by the Employment Exchange. Since, according to the Department, the recruitment could not be done within the validity period due to some administrative reason, the Employment Exchange was requested to revalidate the list of candidates already communicated in their letter dated 01.12.1997. It is brought to our notice that in response to their letter dated 01.12.1997, the Employment Exchange, while revalidating the list, included more candidates by their letter dated 17.12.1997. Accordingly, the written examination originally scheduled on 19.12.1997, was postponed to 28.12.1997. It is further brought to our notice that the Department had notified six vacancies, for which the Employment Exchange sponsored names of 43 candidates. However, due to the letter of the Election Commission dated 19.12.1997, banning new recruitment, the interview to be held on 28.12.1997, was postponed. By pointing out the above details, the learned Government Pleader contended that there was no mala fide intention in the postponement of examinations, as alleged. We accept the same.

7. It is also brought to our notice that the Department had notified six vacancies, for which the Employment Exchange is empowered to sponsor 120 eligible candidates. On the other hand, the Employment Exchange had altogether sponsored only 43 candidates, which is below the prescribed ratio of 1:20.

8. In so far as the complaint against the 4th respondent is concerned, though it is the claim of the petitioners that his name was sponsored by the Employment Exchange for more than nine times, considering the very same objection, the Tribunal, on perusal of the materials and documents, arrived at a conclusion that there is no basis for such claim. It is the specific claim of the 4th respondent that all along i.e., from 1988, he has not

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received a single letter of interview for any post and accepting the same, the Tribunal, rightly rejected the claim of the petitioners. In such a circumstance, applying the relevant provisions contained in Government Order dated 24.08.1993, giving age relaxation, the 4th respondent was selected on the basis of merit. This aspect was considered in detail by the Tribunal and in the absence of any contra material, we concur with the same.

9. It is the claim of the petitioners that the selected candidate, viz., Dhakshinamoorthy had produced false experience certificate. According to them, he was in Government service since 1989 and while he was in Government service, he should not be employed in a private firm from which he obtained the experience certificate. The said Dhakshinamoorthy, has filed a counter before the Tribunal as well as before this Court, controverting the allegation made by the petitioners. It is his claim that he underwent apprenticeship training on meager stipend and at that time he was attending a work shop to gain experience and subsequently he got appointment as Lower Division Clerk and after getting appointment, he obtained permission from the authority and got his name entered in the Employment Exchange for the post of Motor Vehicle Inspector, Junior Engineer, etc. on the basis of his technical qualification and on the basis of the said permission he attended workshop during night hours for the purpose of completing the period of experience and the said certificate was produced before the authority. There is no reason to disbelieve the above claim of the said Dhaskshinamoorthy. In fact, the Tribunal, after analysing the same, accepted his stand. Accordingly, the claim that said Dhakshinamoorthy secured employment by producing false employment certificate is liable to be rejected.

10. Though it is the claim of the petitioners that the Tribunal ought not to have relied on 1984 Rules, the Department has explained that the entire recruitment was done based upon the 1984 Rules. Hence, as rightly observed by the Tribunal, the question whether the experience certificate should be obtained from a reputed firm does not arise and we concur with the said conclusion.

11. Coming to the contention relating to relaxation of age in favour of some of the selected candidates is concerned, as discussed by the Tribunal, we also verified G.O.Ms.No.98/83 Labour Department dated

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24.08.1983, which finds a place at page 1 of the typed set of papers filed by the petitioners. A perusal of the same shows that both the Employment Exchange as well as the Recruitment Committee are authorised to send and consider over aged candidates in case they are found to be more meritorious from among the candidates. However, as rightly pointed out, before considering such candidates, individual relaxation has to be obtained from the competent authority. We are also satisfied that the Government is empowered to give age relaxation and the relaxation given in respect of selected candidates does not call for interference. Admittedly, the said Government Order has not been challenged by the petitioners. The contra argument is liable to be rejected.

12. Finally, as rightly pointed out by the Tribunal, though the petitioners have made elaborate enquiry with regard to age, qualification and experience of the selected candidates, if they were really interested in disputing the same, they should have forwarded all those materials to the Transport Department in order to verify the same. Admittedly, the said recourse had not been followed by the petitioners. We are in agreement with the conclusion of the Tribunal that in a matter like this it cannot be expected that the Tribunal / Court has to conduct a detailed enquiry regarding the factual aspects and if the concerned Department is satisfied with the materials placed, no further adjudication is called for at the hands of Tribunal or this Court.

13. Though a faint argument was advanced that the Department has not published the marks secured in the written examination, in the absence of allegation of mala fide or manipulation in the process of selection, the contention of the petitioners is liable to be rejected. It is relevant to note that the petitioner in WP.No.21528 of 2001 appeared in the examination without protest and when he was not selected in the examination, he approached the Tribunal challenging the entire process. The Courts have often held that such claim is liable to be rejected. From the materials placed, we are satisfied that the petitioners have not secured more marks than the selected candidates and all their contentions/grievance have been considered and rightly rejected by the Tribunal.

In the light of what is stated above, we do not find any merit in both the writ petitions, consequently,

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the same are dismissed. No costs. Connected WPMPs., are also dismissed.

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Sd/
Asst.Registrar

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Sub Asst.Registrar

To
1. The Secretary to Govt.,
   Transport Department
   Chief Secretariat
   Government of Pondicherry
   Pondicherry.

2. The Transport Commissioner
   Transport Department
   Government of Pondicherry
   Pondicherry 1.

3. The Registrar
   Central Administrative
   Tribunal, Madras Bench
   Chennai 600 104.

+1 CC to Senior Government Pleader, Pondicherry, SR No.28687.

+1 CC to Mr.V.Ajay Kumar, Advocate, SR No.28685.

+2 CC to M/s.G.M.Mani Associates, SR No.28639.

JE(C.O)
BG/15.07.2005.

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